

Internal Revenue Service

Department of the Treasury

District  
Director

Person to Contact:

Telephone Number:

Refer Reply to:

Date:

SEP 3 1986

• Gentlemen:

We have considered your application for exemption from Federal income tax under the provisions of section 501(a) and as an organization described in section 501(c)(3) of the Internal Revenue Code.

You have submitted information that indicates that your organization was incorporated as a non-profit corporation on [REDACTED] under the laws of the State of [REDACTED].

Your purpose, as stated in your certificate of incorporation is to be an educational organization for the purpose of teaching and promoting public safety.

Your activities, as stated in your Form 1023, Application for Recognition of Exemption, are to offer educational programs in Cardiopulmonary Resuscitation, emergency cardiac care, prudent health and fitness, basic emergency medical management and related areas and symposia on topics related to pre-hospital emergency care. In addition, you offer programs in fire safety and response. Also, you state you will provide counseling in the above areas to medical agencies, municipal governments, industry and the general public. Furthermore, you indicate that in the future, you will provide a computer data base service to emergency response units.

You have stated that your fees for your services will be based on cost of operations, salary and depreciation expense plus a percentage of gross revenue for growth, and that membership in your organization is limited to members of your original board of directors.

Section 501(c)(3) of the Internal Revenue Code exempt organizations that are organized and operated exclusively for religious, charitable or educational purposes and which no part of the net earnings inure to the benefit of any private shareholder or individual.

[REDACTED]  
[REDACTED]  
7/3/86

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations states that for an organization to be exempt under section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more such purposes. If it fails to meet either the organizational or operational test, it is not exempt.

Section 1.501(c)(3)-1(b)(1)(i)(a) and (b) of the Regulations states that an organization is organized exclusively for one or more exempt purposes only if its articles of organization limit the purposes and powers of the organization to those in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(c)(1) of the Regulations states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages in activities which accomplish an exempt purpose specified in section 501(c)(3).

Section 1.501(c)(3)-1(e)(1) of the Regulations states that an organization which is operated for the purpose of carrying on a business is not exempt under section 501(c)(3) even if its profits do not inure to any individual.

Revenue Ruling 66-104, 1966-1 C.B. 135 held that an organization is not qualified for exemption where the enterprise is conducted in an essentially commercial manner.

In your organization's case, your purposes and activities are broader than those specified in section 501(c)(3) of the Code. You do not limit your purposes or activities to those which would further an exempt purpose within the meaning of section 501(c)(3) of the Code.

Also, you have indicated that the organization's services will be provided at above cost. This lacks a donative element which is essential for an organization to be considered as operated exclusively for exempt purposes. It appears that your organization's methods, policies and operation are not unlike those of a commercial enterprise.

The organization's initial Directors and or Officers have stated that membership will remain limited to the Directors. There is no indication of community support or involvement in the organization's activities. There is no evidence of other individuals expressing a need for the creation of this type of organization. Usually, a medical service or educational organization will show a definitive community need. The corporate name of the organization appears to be a derivative of the names [REDACTED]. This is consistent with our findings that you are organized for private commercial purposes and were not created due to some public need.

Accordingly, your organization is not qualified for exemption under section 501(c)(3) of the Code and is not qualified for exemption under any other paragraph of section 501(c).

Contributions to this organization are not deductible under Code section 170.

Section 7428 of the Code provides for bringing a suit for a declaratory judgment in the United States Tax Court, the United States Court of Claims, or the district court of the United States for the District of Columbia with respect to this determination.

However, section 7428(b)(2) of the Code provides, in part, that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If you do not exercise your appeal rights, the Internal Revenue Service will consider it as failure to exhaust administrative remedies available to you within the Service. Therefore, you may lose your rights to a declaratory judgment under Code section 7428.

In that event we will notify the appropriate State officials, as required by section 6104(c) of the Code, that based on the information we have available we are unable to recognize you as an organization described in Code section 501(c)(3).

You are required to file Federal income tax returns on Form 1120 within two and one-half months following the end of your annual accounting period.

The enclosed Publication 892, Exempt Organizations Appeal Procedures for Unagreed Issues, explains your appeal rights. Unless we hear from you within 30 days, this letter will be our final determination.

Sincerely yours,

  
District Director

Enclosure:  
Publication 892